

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SERHAT GUMRUKCU,

Defendant.

Case No. 5:22-cr-58

**SERHAT GUMRUKCU’S RESPONSE TO GOVERNMENT MOTION
IN LIMINE TO EXCLUDE EXPERT TESTIMONY**

Defendant Serhat Gumrukcu, by and through his attorneys of record, hereby responds to the Government’s motion in limine to exclude the testimony of the defendant’s forensic computer expert. *See* ECF 194. The Court should deny the Government’s motion.

The Government noticed “two experts who may provide testimony relating to computer and/or phone data analysis.” ECF 194 at 2. Gumrukcu did not find sufficient fault in the Government’s notice to mount a legal challenge. Instead, he notified the Government of his retained computer expert, and provided his *bona fides* as well, in an abundance of caution. At this time, Gumrukcu does not anticipate calling an expert. However, should the Government’s proffered experts offer opinion testimony beyond the scope of its disclosure (and the Court does not exclude or restrict their experts’ testimony) Gumrukcu should be permitted to call his noticed expert to address any unanticipated opinions presented by the prosecution. Thus, Gumrukcu would provide notice of any expert opinions in response to expert testimony provided in excess of the Government’s notice. Until then, there is nothing to notice.

Additionally, should additional information surface in discovery disclosed after the notice deadline, or if information is disclosed during examination of witnesses that was not anticipated, that the defense expert could speak to, specific notice as to the substance of the expert's testimony will be provided at that time.

Rather than recognize this normal mode of practice, the Government instead files a motion to exclude a witness that hasn't even been called. Indeed, the United States hasn't come close to proceeding beyond Rule 29, which is the time at which the defense will be called upon to present witnesses, if any. In sum, the Government's motion is without merit. We request that the Court deny the Government's motion as premature.

Dated this 14th Day of August 2024.

Respectfully submitted,

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